



**Attorney General
Betty D. Montgomery**

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Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth Street
S.W. Room TW-B204F
Washington, D.C. 20554

Re: *In the Matter of Numbering Resource
Optimization, CC Docket 99-200, et al.*

Dear Ms. Salas:

Enclosed please find the original and five copies of the comments of the Public Utilities Commission of Ohio in the above referenced docket. Please return one copy in the enclosed self-addressed stamped envelope.

Thank you for your consideration in this matter.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jodi J. Bair".

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Connecticut Department of Public)	
Utility Control Petition for Rulemaking)	
to Amend the Commission's Rule)	RM No. 9258
Prohibiting Technology-Specific or)	
Service-Specific Area Code Overlays)	
)	
Massachusetts Department of)	
Telecommunications and Energy)	
Petition for Waiver to Implement a)	NSD File No. L-99-17
Technology-Specific Overlay in the)	
508, 617, 781, and 978 Area Codes)	
)	
California Public Utilities Commission)	
and the People of the State of California)	NSD File No. L-99-36
Petition for Waiver to Implement a)	
Technology-Specific or)	
Service-Specific Area Code)	

COMMENTS OF THE
PUBLIC UTILITIES COMMISSION OF OHIO

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INTRODUCTION and BACKGROUND

On May 27, 1999, the Federal Communications Commission (FCC) adopted a Notice of Proposed Rulemaking (NPRM) in CC Docket No. 99-200 (CC 99-200). The FCC's NPRM seeks comment on possible measures that could be employed to ensure the more efficient allocation and use of telephone numbers. The FCC notes that if no action is taken, the North American Numbering Plan (NANP) estimates that North America could exhaust its area codes within the next 10 to 15 years. The FCC further observes that if the current numbering plan is consumed prematurely, and if one or more digits are required to be added to the current 10 digit sequence, the corresponding implementation of a new numbering program could cost between \$50 and \$150 billion and could take as long as 10 years to implement.

The FCC indicates that the primary focus of its proceeding is to solicit comments on certain proposed administrative and technical measures to promote the more efficient use of the current numbering plan. In particular, the FCC requests comments on the following: (1) whether industry guidelines should be modified or replaced with federal regulations; (2) whether the allocation of numbers should be based on a demonstration of need to ensure that carriers will request numbers only when they are needed and will return numbers when they are not needed; and (3) whether the current method of allocating numbers in blocks of 10,000 should be replaced with a pooling system that allocates numbers in smaller blocks of 1,000. The FCC also seeks comment on a proposal whereby carriers would be required to purchase numbers, and a proposal to require rate center consolidation of numbers and mandatory ten-digit dialing. Moreover, the FCC requests input on more traditional area code relief plans including splits, overlays, and boundary realignments.

Comments in this proceeding are due on July 30, 1999. Replies are due on August 30, 1999. The Public Utilities Commission of Ohio (Ohio Commission or Ohio) hereby submits its comments to the FCC's May 27, 1999, NPRM in CC 99-200. In its NPRM, the FCC seeks comment on many issues. Several questions raised in the NRPM are raised in several different places and are redundant. To assist the FCC with understanding the Ohio Commission's opinions and to reduce duplication of comments, rather than follow the order of comments seeks in the NPRM, the Ohio Commission has organized its comments by subject area.

SUMMARY

The Ohio Commission recognizes that the current numbering administration system is in desperate need of reform. We are encouraged by the FCC's NPRM and are hopeful that the FCC will quickly move to establish mandatory, enforceable rules that address the existing numbering crisis and set the stage for stable forward-going number administration. The FCC's new rules must maximize efficiency in number utilization and ensure competitive neutrality.

Within this new numbering framework, states must have the authority to utilize national standards, such as conservation measures, yet also have the flexibility to utilize measures in a manner that satisfies the individual and unique needs of each state. The nature of telephone numbers and their use by carriers calls for strong cooperative administration efforts between the federal and state regulatory authorities and the North American Numbering Plan Administrator (NANPA). The FCC is best positioned to implement national administration rules and enforcement tools by which all must abide. The states are best positioned to analyze the use and demand for numbers in the local markets and best understand which efficiency measures would generate the best

overall results in a cost benefit analysis. Finally, as the organization in charge of the day-to-day administration of number resources, the NANPA must have the tools necessary to begin the line of efficiency from the initial assignment of numbering resources.

The Ohio Commission believes that the societal costs associated with area code exhaust are great as are the estimated costs of many of the measures proposed to address the exhaust situation. Consequently, to uphold our duty to the public interest, we must understand the costs as well as any benefits that may be achieved by various actions. Time is of the essence and the FCC must act promptly. If the new millennium is to find us looking at long-term solutions to number exhaust and continuing growth of competitive markets, the FCC needs to develop rules that will achieve the common objectives that we all seek.

DEFINITIONS

In paragraphs 39 and 40 of the NRPM, the FCC seeks comment on the need to establish uniform definitions. The Ohio Commission agrees with the FCC that the establishment of uniform definitions is necessary to implement an effective numbering program. Strong federal rules must be based upon universal definitions that are understood by carriers, the NANPA, and regulatory agencies charged with enforcement of those rules. Furthermore, given the Ohio Commission's belief that the new federal rules must be readily enforceable, due process considerations require that those who are governed by them reasonably know what the law requires. This cannot be accomplished without uniform definitions. It follows that the fundamental importance of uniform definitions in a scheme of strong, enforceable federal rules necessitates that they be codified as part of the FCC's rules. The Ohio Commission

further notes that the rapid development of technology in the industry will likely require the FCC to frequently review the definitions that it adopts and to make revisions as technology changes and develops.

Definitions of Categories of Number Usage

Regarding number usage and which numbers should be included, in our opinion, all numbers being utilized in one manner or another should be considered unavailable and reported as unavailable for assignment. What the FCC has to be watchful of is the possibility for a service provider to taint full NXX codes by assigning themselves administrative, test and/or employee numbers, each code assigned to them.

Number reservation is an area of concern to the Ohio Commission. Some service providers reserve or set aside large quantities of numbers for large corporate users, developers, and other types of businesses to meet customer demand for sequential numbers when the customers need additional lines. There are other scenarios not being mentioned here, but which definitely exist. Though these numbers are not actually in use (and may never be used), the reserved numbers are unavailable for assignment to other customers.

The service provider will often ensure that the business customer reservation is preserved for as long as necessary. That could mean years. No service provider is going to allow its top revenue customers to lose their number reservations, no matter what exhaust consequences might exist. The service provider's bottom line could be affected immediately if such reservations were reclaimed, especially so in a competitive market where the customer could actually select another carrier to provide its service needs. However, if the FCC were to implement rules that prohibited number

reservation for any period greater than three months, regardless of who the customer is, number reservation efforts for purposes of hoarding would become a past practice upon implementation of the guideline.

COCUS

Numbering Resource Optimization Efforts

The NPRM observes that the FCC, state public utility commissions, and the telecommunications industry have taken steps to optimize the use of numbering resources through various administrative and regulatory efforts. One such effort is the industry development of the Central Office Code Guidelines, designed to provide a framework for allocation of central office codes within the NANP. Another measure is the collection of data from service providers through the Central Office Code Utilization Survey (COCUS). The COCUS solicits data on projected CO code utilization for each NPA in the NANP, which the NANPA uses in order to project NPA exhaust in connection with area code relief planning and implementation.

At paragraph 21 of the NPRM, the FCC notes that preliminary estimates indicate that a relatively low percentage of individual telephone numbers are actually assigned to customers throughout the NANP. The NANPA estimates that the "fill rate," or actual assignment to subscribers of telephone numbers allocated to carriers, is between 5.7 percent and 52.6 percent, depending on the industry segment. Despite the relatively low utilization rate of individual telephone numbers, existing area codes are entering jeopardy and new area codes are being activated throughout North America at an alarming rate. The FCC notes that one of the major drivers of number exhaust is the lack of discipline in the process by which numbering resources are administered and allocated. NPRM at ¶ 36. The FCC requests comment on the wisdom of adopting

enforceable federal rules to govern practices and procedures that are now governed solely by voluntary industry guidelines. The FCC states in its NPRM that it is "difficult for the industry to police itself effectively," and asks for specific comments regarding the possible interplay between FCC rules and industry guidelines. NPRM at paragraph 35.

The Ohio Commission believes that the information currently available from the COCUS is largely without value. This annual COCUS report is generated without adequate or accurate information, subject to the voluntary participation of carriers. Recommendations already made by the North American Numbering Council (NANC) propose ways in which this tool might be fixed. One essential element recommended by the NANC, which bears reinforcing, is the frequency with which forecast and utilization data is provided to the NANPA. The Ohio Commission believes that, at a national minimum, detailed forecast data should be reported on a quarterly basis and NXX usage data on a semi-annual basis.

It may be argued that the carrier's cost to provide more frequent and/or more detailed reporting will be significant. The Ohio Commission finds that argument to carry little weight. We believe that most carriers have this type of information readily available and submission of the data would only represent a small incremental increase in administrative costs to the carrier. Certainly, all carriers should have accurate and up-to-date forecast information available.

Some carriers may claim that they do not have systems in place to report the detailed NXX utilization data necessary to enforce efficiency objectives. A simple cost benefit analysis should easily demonstrate that the costs for creating these systems are small in comparison to the benefits of more efficient number resource utilization.

Furthermore, detailed and accurate data is necessary for most if not all viable conservation measures, including utilization threshold requirements, exhaust forecasting, NPA relief planning, and number pooling.

The Ohio Commission believes that the competitive forces which were purposely set into motion by the 1996 Act effectively preclude the expectation that voluntary industry guidelines can result in the proper use of scarce numbering resources. The rapid exhaust of area codes across the country amply demonstrates that fact. As the NANP rapidly approaches exhaust, the numbering demands placed upon telecommunications carriers to position themselves for competition directly conflict with the broad public interest in the conservation of numbering resources. The industry guidelines for number assignment fail to secure specific requirements that would ensure that efficient assignment and utilization ratios are met. One prime example is the contradictory nature of the code assignment guidelines and the NANPA's ability to carry out the guideline objectives. The guidelines prohibit the NANPA from denying any carrier a requested code as long as the carrier meets the minimal application requirements. At the same time, the guidelines suggest that carriers should use numbers efficiently, but give no authority to the NANPA to verify such efficiencies. (Specifically, the NANPA is being required to follow a guideline which promotes fair treatment and assignment of codes on demand; however, the NANPA is given no authority to enforce rules which might allow it to require number utilization reporting in order to ensure that service providers are not hoarding numbers for purposes of potential, not necessarily actual, growth.) The guidelines fail to allow for sustainable evidence of the need for code assignments and are further burdened with the requirement to promulgate parity in the assignment of codes without being given

the tools to assess the need for such assignments. The Ohio Commission, therefore, strongly favors the adoption of enforceable federal rules to govern the allocation of numbering resources in the United States. Voluntary industry guidelines are no longer appropriate for that purpose.

Specificity of Data.

At paragraph 76 of the NPRM, the FCC seeks comment on the level of granularity this utilization and forecast data should be reported, e.g., at the NPA level, rate center level, or thousands-block level. The FCC tentatively concludes that, in order to provide information that is meaningful for utilization tracking and forecasting purposes, telephone number status data should be reported at the rate center level, at a minimum.

The Ohio Commission fully supports the FCC's conclusion to require data to be reported at the rate center level. Furthermore, we recommend that the NANPA COCUS report should be further disaggregated down to the 1,000 number block level. It is necessary for the data to be clear and granular enough to allow for enforcement of efficiency usage measures. Such reports must maintain the flexibility to require additional information from carriers as needed and to allow states to review all data collected by NANPA. Carriers should report utilization data in the lowest level of aggregation (i.e., rate-center and 1,000s-block usage) for each operational code and should not be allowed to report it in an aggregate form. Forecast data should, at a minimum, be reported at the NXX by rate center level. Consideration given to enhancing further number utilization methods will greatly depend on the availability of accurate and timely data regarding carriers' number utilization and forecasts. No NXX code holding carrier should ever be exempted from reporting.

Report/Record-keeping Requirements

The FCC seeks comment on the appropriate reporting and record keeping requirements for carriers to submit to the NANPA. The FCC states that collection of information on the current and projected utilization of numbering resources is necessary for allocation and forecast purposes. According to the FCC, such data also serves as a check on the ability of carriers to hoard numbers or otherwise abuse the number administration system. Further, the FCC notes that the need for better and more timely data on number usage and forecasted demand has increased due to the development of competition in the local exchange and wireless markets. NPRM at ¶¶ 69-72.

To further improve the reporting mechanism, the FCC tentatively concludes that carriers should report utilization and forecast data on a quarterly basis, rather than the current annual reporting cycle. The FCC seeks comment on whether it should differentiate between carriers in high-growth rate NPAs and low growth rate NPAs in terms of reporting frequency, and if so, how. Alternatively, the FCC asks, would it just be sufficient to conduct an additional round of data in an NPA when jeopardy is declared for a particular area code. In addition, the FCC seeks comment on what provisions, if any, should be established to protect the confidentiality of the data disclosed to the NANPA, the FCC, and/or the state commissions. In particular, the FCC seeks comment as to the access and use of confidential information by state commissions. NPRM at ¶¶ 77-79.

Because forecast and utilization data is so critical to number administration and area code relief measures, the Ohio Commission strongly agrees with the FCC that carriers should report such information on a quarterly basis. In fact, in order to

strengthen the incentive of carriers to comply with such reporting requirements, the Ohio Commission suggests that if a carrier does not submit a report on a quarterly basis to NANPA, that carrier then becomes ineligible to receive any additional numbering resources. The Ohio Commission does not believe that it would be sufficient to conduct an additional round of data requests only when jeopardy is declared in a particular NPA. While we believe NANPA, and those states that desire such information, should have the flexibility to make such a request in a jeopardy situation, the Ohio Commission continues to support the position that a quarterly reporting mechanism across all segments of the industry will produce the most useful information.

As a final matter on report/record-keeping requirements, the FCC seeks comment on alternative data options. The FCC notes that several options are currently under development by the industry groups and/or NANC. The FCC mentions the forecast and utilization reporting requirements in the Thousand Block Pooling Guidelines. These guidelines require carriers to submit reports semiannually by thousands-block within a rate area where number pooling has been or is planned to be implemented. The Line Utilization Survey (LINUS) is another option mentioned by the FCC. The LINUS has been developed by the NANPA and is currently under consideration by NANC. LINUS would require forecasted data to be submitted quarterly at the rate center level. The data would be collected at the thousands-block level by rate center, quarterly in the largest 100 MSAs and semiannually in the remaining MSAs, and more frequently in NPAs nearing jeopardy. Finally, the FCC explains AT&T's proposed model that would, like COCUS, collect forecasting and

utilization information annually, at the NPA level, but with the capacity for "real time" updates at other times. NPRM at ¶¶ 80-82.

The Ohio Commission believes that data should be collected at the thousand-block level on a rate center basis and should be provided, at least, quarterly. Again, the Ohio Commission urges the FCC to apply these requirements to all carriers in all areas so that reporting is complete and accurate. The Ohio Commission believes that the concepts underlying the LINUS option, especially the idea that collection of data would increase as an NPA neared jeopardy, are preferable to the other options. The Ohio Commission questions, however, one aspect of LINUS which is the need to have different requirements for the top 100 MSA versus other areas. As previously stated, we believe these requirements should apply across industry segments and geographic areas. While the Ohio Commission does not support the adoption of AT&T's model because it does not require more frequent reporting, the Ohio Commission does support AT&T's proposal to separate out growth codes, initial codes for new entrants, and initial codes for new switches from the forecast data. This separation would provide valuable trend information to data users.

Confidentiality

Carrier concerns about the confidentiality of data in the hands of state commissions are misguided and ignore historical experience. State commissions, including the Ohio Commission, have been entrusted with confidential company information for many years as a part of their regulatory duties. Indeed Ohio has in place, as do other states, statutory and administrative protections against the release of confidential or proprietary information obtained by the Public Utilities Commission,

with significant penalties for violation of those sections.¹ To suggest that usage and forecast data would somehow be treated with less care than data which are already in the possession of state commissions is to disparage the central role played by the states before adoption the 1996 Act and the very important role they play now. The Ohio Commission believes that the cooperative relationship between the FCC, the NANPA, and state commissions in implementing the provisions of the 1996 Act would be severely undermined by relegating state commissions to second-hand knowledge of crucial data based upon unfounded concerns about confidentiality. Ohio therefore opposes any limitation on its access to data before it may obtain and review usage and forecast data as it performs its role in NXX administration and area code relief within its jurisdiction. Principles of comity and practical considerations for states performing NXX administration require that the states be afforded the same degree of trust with confidential information as the FCC or as a non-government entity such as the NANPA.

Enforcement

The FCC seeks comment on what actions it should take to enhance the enforceability of the number utilization and optimization provisions contained in the guidelines. The FCC tentatively concludes that the NANPA, the FCC, and the state commissions each have distinct roles to play in enforcing the provisions of the CO Code Guidelines and other numbering utilization rules, and it seeks comment as to what those roles are. The FCC notes that the NANPA would be the first entity to detect a carrier's violation of a rule or guideline, and, therefore, may be in the best position to take enforcement action. The FCC tentatively concludes that NANPA should be

¹ See Ohio Rev. Code Ann. § 4901.16 (Baldwin 1999).

delegated additional enforcement authority and should be empowered to withhold NXX codes as a sanction for violation of the CO Code guidelines, especially where the violation involves failure or refusal to supply accurate and complete utilization or forecast data. On the other hand, the FCC points out that in some situations where enforcement is more subjective and NANPA's neutrality may be called into question, the regulatory authorities may be better suited to handle the enforcement. Further, the FCC believes regulatory entities should provide a route of appeal from NANPA enforcement actions. The FCC seeks comment as to how these duties should be split between the FCC and NANPA, in light of the fact that most state commissions are not performing number administration functions. Finally, the FCC points out that withholding additional numbering resources will not have an effect where the carrier is not in need of additional resources. Thus, the FCC tentatively concludes that fines and forfeitures, and possibly, in extreme situations, revocation of certification and licenses should be available as sanctions, all of which could only be imposed by regulatory authorities. NPRM at ¶¶ 91 - 94.

The Ohio Commission agrees that rules need to be enacted with strict enforcement provisions. Denial of numbering resources is the most effective enforcement mechanism for failure to comply with the rules. Enforcement must be uniformly strong with minimal exceptions, so that carriers will have an incentive to comply with the rules. NANPA, the FCC and state commissions all have a role to play in enforcement. The FCC must adopt specific, mandatory requirements and then delegate the enforcement of those requirements to NANPA and the state commissions. While some enforcement activity can be delegated to the NANPA, we agree with the FCC that there are certain situations and certain penalties that can only be addressed by

regulatory authorities (*e.g.*, revocation of certificate of public convenience and necessity). Those duties must be delegated to state commissions who choose to take such a role. If not, carriers may be able to hide behind "national" policies in order to continue practices which negatively impact local number administration. Further, it is possible for states to work collaboratively with the FCC on enforcement issues. While withholding numbering resources is the most effective disincentive for non-compliance, in some instances steep fines and other measures may be more appropriate. If fines or forfeitures are used, the FCC must mandate high amounts to deter carriers who may determine that the cost of the fine is worth the violation.

Accordingly, the Ohio Commission agrees with the FCC (NPRM at Paragraph 92) that NANPA should be delegated the authority to withhold NXX codes if a carrier fails or refuses to supply accurate utilization or forecast data. Continuing violations or failures to provide full and accurate information should result in a moratorium on any further requests by a sanctioned carrier for additional NXX codes, whether yet filed or not. In essence, Ohio believes that non-compliance should result in a continuing sanction of withholding NXX codes until the carrier complies with FCC rules.

The Ohio Commission believes it is appropriate to delegate to the NANPA authority to issue fines or forfeitures against carriers. Ohio further believes that carriers should be authorized to appeal such NANPA sanctions to state commissions² with review of the state decisions to the FCC. Additionally, state commissions should have the authority to impose monetary sanctions for violations that come to their attention

² The Ohio General Assembly has granted the Public Utilities Commission of Ohio the authority to "exercise such power and jurisdiction as is reasonably necessary. . .to perform the acts of a state commission pursuant to the 'Telecommunications Act of 1996' . . ." R.C. 4905.04(B).

in the course of their auditing or number administration duties. States have exercised quasi-judicial jurisdiction for many years and are appropriate forums for monetary sanction petitions. FCC review of state monetary sanctions would ensure a cohesive national policy for violations, without unduly burdening the FCC with original sanction petitions. In extreme situations, such as where monetary sanctions do not adequately compel carrier compliance with FCC rules, Ohio favors the authority for states to revoke certification and licenses for violation of FCC rules, subject to review by the FCC. Effective enforcement of a national scheme of rules must, as a matter of design, include a full range of sanctions available to regulatory authorities, and Ohio favors certification and license revocation as one of those options.

The Ohio Commission favors delegation of authority to state commissions to order number block reclamation in accordance with CO Code Guidelines and any rules that the FCC adopts as part of this proceeding. Ohio believes that this is an important enforcement tool to conserve numbering resources. Ohio further favors a FCC directive to the NANPA to refer code activation questions or disputes, deadline extensions, or reclamation to state commissions for resolution, rather than to the Industry Number Council (INC). Although an industry consensus process perhaps serves the interests of settling disputes among industry colleagues, state commissions possess the neutrality, skills, expertise, and administrative machinery to effectively resolve such issues while balancing the relative interests of the parties and the public. Because each state has developed its own method of best resolving conflicts, Ohio opposes the establishment of particular processes to engage in dispute resolution.

UTILIZATION

The Ohio Commission believes that there exists a need for the FCC to support audits of carriers who are suspected of number hoarding. Therefore, the FCC should allow the NANPA and the state commissions to enforce a fill rate requirement by all code holders. Ohio recommends an 80 percent fill rate requirement before a new code is assigned. Short of demonstrating that the fill requirement has been met, the NANPA should be allowed to deny the code and, further, should be empowered to perform an audit of the code holders' inventory in order to support its requirement to deny such an assignment and to assess penalties.

If the audit shows that the code holder is holding more than those codes which it requires for current allocation and forecasted growth within 1 year, the NANPA should be allowed to reclaim all those codes which it finds are being unfairly and improperly retained by the code holder.

Verification of Need for Numbers

Prior to applying for growth codes, applicants are required to provide a Months-to-Exhaust worksheet to the NANPA. The FCC seeks comment on whether requiring applicants to submit the Months-to-Exhaust Worksheet along with an application for a growth code is an adequate demonstration of need for additional numbering resources. The FCC seeks further comment on whether NANPA should be required to evaluate the Months-to-Exhaust projection prior to allocating the requested code. FCC seeks comments on whether there are modifications to the current Months-to-Exhaust forecast that might alleviate these concerns. NPRM at ¶ 61.

The Ohio Commission agrees that applicants should demonstrate need prior to applying for growth codes. A utilization threshold level would be a more effective

measure than a Months-to-Exhaust worksheet. The Ohio Commission also agrees that using the Months-to-Exhaust Worksheet is a concern because the analysis is forward-looking and does not provide objective historical evidence on which to judge the Worksheet.

In the alternative, the FCC seeks comment as to whether a specified numbering utilization threshold or "fill-rate" would be superior to a Months-to-Exhaust Worksheet as a precursor to a code request by an applicant. Further, the FCC asks whether a percentage fill rate should be adopted and if so, the appropriate level for that threshold. The FCC questions whether this threshold should be uniform or vary by industry segment. In addition, the FCC inquires as to whether the utilization standard should be gradually increased over time and whether such threshold should apply nationwide or only in the largest 100 MSAs and in other area codes where jeopardy has been declared. NPRM at ¶¶ 62-63.

At the inception of the Ohio Commission's generic docket into number assignment issues (*In the Matter of the Investigation into Telephone Numbering and Number Assignment Procedures*, PUCO Case No. 97-884-TP-COI), our Staff recommended that we adopt an 80% utilization factor. The Ohio Commission noted, however, that as a result of federal progress through NANC and NRO on this issue, we reserved the right to implement Ohio-specific guidelines for the administration and utilization of telephone numbers if we determine that progress at the federal level insufficient for Ohio's needs. We believe there would be significant merit to a utilization threshold. Further, we would like to recommend that, if the FCC adopts a specific utilization threshold, states should be given the flexibility to adjust the threshold upward depending upon local circumstances. Finally, we would like to point out that

competitive neutrality would dictate that such a threshold should not vary between industry segments or locales. Such a standard application of a utilization threshold would discourage any potential "gaming" of the system.

Regarding seasonal fluctuations concerns by CMRS carriers, we would like to comment that no unique impact should be felt by CMRS carriers. Carriers should have already systematically forecasted their needs far in advance of whatever season it is in which they are considering number additions due to pre-planned promotions and seasonal changes in demand. Therefore, we believe that there exists no uniqueness in the manner in which ILECs, CLECs and CMRS prepare themselves for those peak times, in any season, regarding allocating numbers to end user customers.

The FCC requests detailed input on how the threshold utilization rate should be calculated. The FCC asks specifically what quantities and types of numbers should be included in the numerator and which numbers should be included in the denominator. Further, the FCC seeks comment on whether applicants should be able to exclude NXXs obtained in the period immediately preceding the carrier's request for additional numbering resources and the appropriate time period for such exclusion. The FCC questions whether such calculation should be NPA-wide or rate-center wide. If a commentator suggests an NPA-wide calculation, the FCC solicits input on how regional variances in number utilization patterns should be taken into account especially in those areas where there is a mix of suburban/rural and urban areas. Finally, in implementing a numbering utilization threshold, the FCC questions whether it should distinguish between carriers that have a small presence in a given NPA or other appropriate geographic area in order to not discourage market entry and competition. Thus, the FCC seeks comment as to whether a graduated utilization threshold should apply to

carriers based on the number of NXX codes a carrier holds in a given NPA. NPRM at ¶¶ 64-68.

Under the current NXX assignment system, the only reasonable way to calculate a threshold utilization rate is on an NXX and rate center basis. All codes held by a carrier in a rate center must meet the utilization threshold before a new code is awarded to the carrier in that rate center. We do not believe it is necessary to exclude NXXs obtained in the period immediately preceding the carrier's request for additional codes. If a carrier has an under-utilized code, whether new or old, the carrier does not need to obtain an additional code. Again, consistent with our previous comments, any threshold calculation or other numbering conservation measure adopted by the FCC should apply equally to all segments of the industry across all geographic areas. We assert that it is important for all carriers, large or small, to use their numbering resources efficiently. The Ohio Commission recommends that it is not necessary to design elaborate schemes for considering regional issues but instead, to require all carriers to submit rate center based data to the NANPA in order for all interested parties to consider that data at any aggregation level.

Impact on Small Carriers and New Entrants.

The FCC seeks comment on whether, in implementing a numbering utilization threshold, they should distinguish between carriers that have a small presence in a given NPA or other appropriate geographic area because they are either new market entrants or small carriers, and carriers that have a larger presence. NPRM at ¶ 68.

The Ohio Commission maintains that all carriers large or small should be treated alike; an 80 percent utilization threshold should apply across the board in order not to disadvantage any carrier. A small carrier with one code and not yet facing competition

will very likely report efficiently regarding its one code. It might never reach 80 percent utilization, because it might never be faced with competition. The reporting of utilization rate should not, therefore, represent a threat to small carriers. Even if the carrier feels threatened by competition, the carrier, once it has reached the 80 percent utilization threshold, will be able to request and receive from the NANPA any additional codes that it will require in order to offer its services in a competitive market. The carrier should receive the new code assignment upon request.

Cost of Data Collection Activity.

The FCC seeks comment on the cost of the proposed data collection activities to service providers, including the estimated fixed and incremental costs of that collection. NPRM at ¶ 79.

The Ohio Commission believes a uniform rate across all carriers could be competitively neutral and would certainly be administratively manageable. There is no reason (when weighed against the societal costs) that a carrier should be awarded an NXX code in a rate center where the carrier already has largely under-utilized NXX codes.

Audits

The FCC points out the only comprehensive method for verifying the validity and accuracy of utilization data submitted by the users of numbering resources is through the use of audits. Because the FCC believes audits can serve as a valuable tool to promote numbering resource optimization, the FCC proposed that a comprehensive audit program be adopted. The FCC states that there are three common types of audits: "for cause," "regularly scheduled," and "random audits." The FCC explains each type of audit and seeks comment on whether one or a combination of such audits

would be preferable. Further, the FCC inquires as to what entity should have the audit responsibility: NANPA, FCC, state commissions, or a neutral third party. The FCC asks NANC to provide a progress report on its work regarding a comprehensive audit process. Finally, the FCC seeks input on the best method for soliciting the input of state commissions as the FCC believes states should have a major role in the development of national auditing framework and procedures. NPRM at ¶¶ 83 - 90.

The Ohio Commission agrees with the FCC that a comprehensive audit program is necessary to ensure carrier compliance with rules and regulations guiding number administration. The Ohio Commission supports the use of all three types of audits identified by the FCC. The resources should be focused on the "for cause" and "random" audits which will produce the most benefits. "Regularly scheduled" audits may not be necessary if the FCC adopts a more frequent time frame for forecasting and utilization requirements. The Ohio Commission believes states should be given the authority to conduct "for cause" and "random" audits if local circumstances warrant. Further, we stress that states must be given access to information supplied to other auditors as well as the auditors' findings. In general, the Ohio Commission emphasizes that states need to be kept apprised of all auditing activities and given the opportunity to conduct their own audits when necessary.

With regard to a third party auditor, the Ohio Commission believes the NANPA is a neutral third party and should be empowered to conduct audits. Ohio believes that the NANPA possesses sufficient neutrality and expertise to effectively perform audits of carriers.

Reclamation of NXX Blocks

The FCC states that the reclamation and reuse of unused NXX blocks is a numbering optimization measure that may be one of the quickest and easiest measures to implement. NPRM at ¶ 95. Currently, the CO Code Guidelines contain provisions for NXX block reclamation, which require an NXX assignee to place a code "in service" within 6 months of assignment or return the code to NANPA. However, the FCC points out that there has been some hesitancy on the part of NANPA to enforce the reclamation provisions. In order to strengthen this provision, the FCC seeks comment on several options to modify and strengthen the CO Code Guidelines. NPRM at ¶¶ 98-99. First, the FCC asks whether the definition of placing an NXX code "in service" should be clarified to mean not just the activation of the code through the transmission of local routing information to the LERG, but also that the carrier has begun to activate and assign to end users numbers within the NXX code. According to the FCC, this will prevent NXX codes from sitting assigned but unused for lengthy periods of time.

Further, at paragraph 100 of the NPRM, the FCC asks whether initiation of NXX code reclamation should begin within 60 days of expiration of the assignee's applicable 6 month activation deadline instead of 18 months, and whether the period of potential extension should be reduced from six months to 30 days. The FCC seeks comment on whether these proposed changes should be adopted as changes to the CO Code Guidelines or FCC rules. Further, the FCC seeks comment on what, if any, additional authority should be delegated to NANPA to enforce the NXX block reclamation provisions. The FCC tentatively concludes that it should delegate additional authority to state commissions to order NXX block reclamation. In addition, the FCC asks whether it should direct the NANPA to refer questions or disputes about code

activation, deadline extensions or reclamation directly to state commissions for resolution rather than to the INC. Finally, should the FCC require state commissions to establish any particular type of dispute resolution or appeals processes in connection with issues regarding reclamation of NXX codes? NPRM at ¶¶ 95-100.

The Ohio Commission agrees that the definition of "in service" should be revised to mean when the carrier actually begins to assign numbers. However, we agree with the FCC that the potential still exists for carriers to abuse the "in service" standards by simply activating a few numbers in an otherwise unused NXX block in order to avoid reclamation of the block. By clearly defining what "in service" means and having strong audit procedures coupled with severe penalties for non-compliance, abuses should be minimized. The FCC must be more aggressive with code reclamation. The FCC should require reclamation to begin on a more aggressive time frame than that proposed in the NPRM. The proposal is to begin reclamation within 60 days after the activation deadline and the entire process can be completed within 60 days. All that is necessary is for the carrier to receive notice of the reclamation after the activation deadline and to be given time to file for an extension, if necessary. The Ohio Commission does not understand why there would be as much as a 60-day waiting period after the activation deadline for the reclamation process to start. We do agree with the FCC that the period of extension should be changed from six months to 30 days. Any extension should be accompanied by a firm non-extendable deadline. The Ohio Commission believes these procedures, which should be adopted as FCC Rules rather than CO Code Guidelines, would prevent future abuses of the reservation process leading to unnecessary NPAs. Further, we support the FCC's tentative conclusion to delegate additional authority to state commissions to order reclamation

and urge the FCC to broaden the circumstances under which NANPA and/or the state commissions may initiate reclamation proceedings.

The Ohio Commission agrees that NANPA should send disputes over code reclamation directly to the states for resolution rather than the INC. The INC, because it is comprised of industry members, cannot be decisive or impartial in dispute resolution matters with serving utilities. The Ohio Commission currently uses dispute resolution procedures with carrier-to-carrier and customer complaints. We believe these processes will easily lend themselves to dispute resolution in connection with NXX code reclamation. Thus, the FCC does not need to mandate a particular type of dispute resolution or appeals process to be used by the states.

NANPA

At paragraph 103 of the NPRM, the FCC tentatively concludes that the costs of the administrative solutions proposed should be allocated and recovered through the existing NANPA fund formula. The FCC seeks comments on this tentative conclusion. The Ohio Commission believes that the costs of administrative solutions could be allocated and recovered through the existing NANPA fund formula. However, it is important to note at this point, that the Ohio Commission favors a pricing system for numbering resources that would be used to recover NANPA costs. We comment further on this proposal in the Pricing section of our comments. It is not clear to the Ohio Commission that the proposed administrative solutions would require the NANPA to hire additional staff or would simply be a change in the duties of existing staff. Certainly, costs associated with conducting audits, enforcing rules, and/or collecting data at a much more granular level of detail would be reasonably expected. Since local telephone companies that rely upon the NANPA for numbers are usually

held to some measure of price or cost control, it is only appropriate that those companies should be able to expect the same from the NANPA. To that regard the FCC must closely scrutinize the claimed costs and only allow that which is reasonable and prudent.

The implementation of any NANP administrative solutions will affect all carriers; therefore, it is appropriate that the costs be borne by all carriers on a competitively neutral basis. However, the Ohio Commission does not believe that some carriers wishing to recover the costs should be required to pass this cost through to their end users via an explicit bill line item, while other carriers are not required to do so. The Ohio Commission believes that the costs of implementing administrative measures should be borne through the company's costs of doing business and not passed to customers via a line item charge on bills.

The Ohio Commission agrees with the FCC's tentative conclusion that section 251(e)(2) requires that the costs of the administrative solutions adopted by the FCC be borne by all telecommunications carriers on a competitively neutral basis. NPRM at ¶ 104.

Non-LNP Solutions

Ten-Digit Dialing

The FCC seeks comment on the merits of expanding the ten-digit dialing requirement. NPRM at ¶ 107. The Ohio Commission agrees that the implementation of an overlay as opposed to a NPA geographic split is much easier from a technical and administrative standpoint. However, the societal attachment to seven-digit dialing is still very significant. The Ohio Commission does not believe the FCC should mandate ten-digit dialing. Even under the existing NXX assignment and dialing plan, there are

many large areas around the nation that can continue to use seven-digit dialing for the majority of their local calling interests. It does not seem appropriate to require ten-digit dialing in an area that may be many years away from exhaust and may have significant potential for geographic splits that do not disrupt large numbers of community calling interests. The Ohio Commission believes there is an on-going transition to ten-digit dialing that is sufficient. Furthermore, there is no assurance that adding "0" and "1" to the D digit will provide any significant extension in the life of an NPA or the NANP. As has been the case with previous expansions of the NANP and most exhaust projections of NPAs, the estimated benefit is likely to be highly overestimated.

Rate Center Consolidation

The Ohio Commission does not support any mandate to states or carriers regarding rate center consolidation. Nor does the Ohio Commission believe any incentive mechanism that hinders or harms states that do not or cannot consolidate rate centers is appropriate. Rate center consolidation is a very complex issue. In many states, rate center consolidation could involve very contentious cases that would take years to resolve. The exhausting numbering system does not have the luxury of time required to consolidate rate centers on a wide enough scale to achieve the desired results. The Ohio Commission is cognizant of the rate center problem with regard to numbering. It is the Ohio Commission's hope that number utilization efficiency measures such as pooling, strong administrative measures, and possibly an updated NANP will provide long term freedom from exhaust concerns. Then states will be able to examine and correct, as necessary, possible rate center problems in conjunction with a more widespread and stable local competitive provider presence.

The Ohio Commission agrees with the FCC (NPRM at ¶¶ 113 –114) that, in those areas where there are contiguous rate centers with identical calling areas and identical exchange rates, rate center consolidation may be fairly easy to implement for some states in some areas. However, rate center consolidation is not viewed by Ohio as a cure-all. The Ohio Commission is not convinced that mandated rate center consolidation is competitively neutral. It seems that consolidation and any associated costs would largely fall upon the ILEC. This would in turn place an undue burden on the ILEC's customers to bear the costs of a system change that in large part is necessitated by the market entry and growth of other carriers (CLEC and CMRS). Compounding this concern is the fact that many of the unduly burdened ILEC customers (especially residential) will have no viable competitive local service alternative choice.

While rate center consolidation would no doubt provide some efficiency gains in the larger and densely populated metro areas, it would provide little benefit in the non-metro areas. There is little competitive entry in these areas. There are a vast number of unused telephone numbers in the non-metro areas and unless rate centers are consolidated over vast distances, the unused numbers in the non-metro areas can not be accessed. The only viable near term solution to access the vast stores of unused numbers in the non-metro areas is a technical solution that breaks the rate center boundary in terms of number assignment.

In NPRM paragraphs 117- 121, the FCC seeks comments on how the FCC might incent states to implement rate center consolidation. Rate center consolidation should be a *long-term* objective of number usage optimization efforts. However, the Ohio Commission does not believe that there is any action the FCC can or should take to

mandate or incent rate center consolidation. The incentive to consolidate rate centers where possible and practical already exists. No state is short of incentive to reduce the rapid and repetitive exhaust of area codes. The advent of intraLATA toll presubscription should help to mitigate some of the negatives associated with rate center consolidation.

It is also important to point out that there are some urban rate centers that are essentially already an exclusive NPA. For example in Ohio, the Cincinnati Rate center covers most of Hamilton County and includes the vast majority of the greater Cincinnati metro area. This 513 NPA is scheduled to exhaust in 2002. Consolidating rate centers with the Cincinnati rate center would do very little to delay exhaust.

At NPRM paragraph 20, the FCC questions whether the FCC should grant states the authority to implement number pooling only after that state has undertaken rate center consolidation. Rate center conditions vary throughout one state and further vary from one state to another. Therefore, it would be wholly inappropriate to reward those that accomplish rate center consolidation while withholding authority from states that do not or cannot accomplish rate center consolidation in the short-term. The FCC should afford to all states all available tools to assist with the numbering problems. It does not make sense to withhold any available measure if a state's cost benefit analysis can show that such a measure would have a net positive effect.

Pooling

The FCC seeks comment on whether mandating number pooling is necessary to achieve the FCC's numbering optimization objectives. Specifically, the FCC seeks comment on the costs and benefits of thousand-block pooling, ITN pooling, and unassigned number pooling. NPRM at ¶¶ 111-130.

The Ohio Commission believes that number pooling could provide exhaust relief in some metropolitan areas. The states should immediately be provided the authority to implement number pooling where a state's analysis determines that so doing is cost effective and beneficial. However, the Ohio Commission does not believe that the FCC should mandate any type of number pooling. Based on our staff's analysis of number utilization in certain areas in Ohio (Case No. 97-884-TP-COI), including major metro areas, number pooling did not appear to provide an appreciable extension in the life of the existing NPA. A small benefit is further decreased when it is compared to the costs associated with implementing number pooling, which first requires that local number portability be implemented. The age of an NPA, the number and type of carriers in a particular rate center, and the configuration of rate centers within an NPA all have a direct effect on the benefit that can be obtained from any type of pooling.

Ultimately, if the FCC should permit pooling in any area, it is imperative that the pooling be required of all number-holding carriers in that area including CMRS providers. The only way to achieve optimum benefits of LNP and pooling and to share the costs across all providers in a competitively neutral manner is to require all carriers in an area to participate in any number pooling system. Such a requirement would necessitate the implementation of LNP by the wireless carriers. Wireless carriers hold a large volume of codes. Excluding these carriers from the pooling system would drastically reduce any level of potential benefit from the very start. Some may argue that pooling could proceed without the wireless carriers, until such time as the wireless carriers have implemented LNP. Proceeding in this manner would not be competitively neutral.

The Ohio Commission agrees that 1,000 number block pooling may be a viable alternative in some areas at this time. Nevertheless, we believe that the costs associated with pooling should be determined and assessed before implementing pooling in any area. Once the need for pooling in a particular area has been determined, all carriers serving in that area should be required to participate, including CMRS.

In the NPRM, at paragraphs 139-141, the FCC discusses Individual Telephone Number Pooling (ITN) and Unassigned Number Pooling (UNP). There might be a time for ITN and UNP to be adopted, if they are fully analyzed and found to benefit the number optimization goals; however, as the FCC suggests, there are far too many unknowns regarding ITN and UNP. Foremost among these unknowns is a complete lack of any cost benefit analysis. Therefore, Ohio would recommend that these measures be removed from further consideration at this moment in time.

State Authority

The FCC seeks comment on whether state utility commissions (or another entity) could make the decision to opt into a nationwide thousands-block pooling architecture on a regional basis, or opt out of a "default" nationwide roll-out of pooling. Based on the proximity of state utility commissions to area code exhaust problems, the FCC seeks comment on whether a regime such as that which currently exists in the area of area code relief is more desirable. NPRM at ¶ 147.

The Ohio Commission believes that the states have a better understanding regarding when and where number pooling implementation should occur; therefore, it would be best for the FCC to allow the states to pursue this effort. The Ohio Commission would not oppose national rules regarding the form and function pooling and pooling administrator(s) should follow when a state decides to implement pooling.

Ohio is greatly concerned with the costs associated with the actual pooling administrative functions to be performed. Should NANPA be appointed as the national Pooling Administrator, whom Ohio would support, all functions and costs must be pre-defined. Further, the costs associated with these functions should be borne by all service providers and never recovered as a line item on end user bills. In summary, unless the Ohio Commission can see that a particular measure will ultimately pass a reasonable cost benefit analysis, the implementation of any measure is premature.

Implementation Time Frames

The FCC seeks comment on whether the estimated time allotted to each of the major tasks involved in implementing thousands-block number pooling is necessary, or, on the other hand, is sufficient, to ensure the proper implementation of thousands-block number pooling. NPRM at ¶ 158.

Regarding the time frame for the implementation of 1,000 block number pooling, we believe that the timeline should be accelerated if a state opts to introduce pooling, whether at the NPA or rate center level. Once the state has considered the benefits and regards this as a viable measure for implementation, carriers should be required to implement within 12 months.

Non-LNP-Capable Carriers

The FCC seeks comment on whether the need to promote efficient use of numbering resources requires non-LNP-capable carriers to participate in pooling, the relative costs and benefits of extending pooling requirements to such carriers, and whether there are viable non-LNP based alternatives to pooling that would promote the efficient use of numbers by non-LNP based carriers. NPRM at ¶¶ 159-169.

The Ohio Commission reemphasizes that all carriers that are benefiting from number allocation in order to provide services should be required to deploy LNP. It is evident that CMRS carriers, for example, are enjoying tremendous growth in their service areas and therefore, are contributing to exhaust to a great extent. It is time for the FCC to revisit its decision to allow a delay in CMRS LNP deployment. LNP has been identified as the building block for thousand-block pooling. If a CMRS provider chooses not to implement LNP or participate in a number pool, then that CMRS service provider's current and future NXX codes should be placed in a technology specific overlay.

It is evident that the life of the NANP, according to the studies conducted by NANPA, would be extended until the year 2051, if CMRS carriers participate in pooling efforts and reclamation of codes existed along with it. Wherein, without CMRS participation the NANP life would only extent to 2027. (*See, Number Utilization Study and NANP Exhaust Study*) The Ohio Commission, therefore, recommends that CMRS providers be required to begin immediately to deploy LNP. Deployment should be concluded in the top 100 MSAs no later than June 30, 2000. In areas outside of the top 100 MSAs, CMRS should be required to respond to a BFR and follow the same implementation requirement timelines, as all landline carriers are required to do today.

Selecting a Pooling Administrator.

The FCC seeks comment on whether the NANPA should serve as thousands-block Pooling Administrator or whether the FCC should seek competitive bids in response to a request for proposal, as it did with respect to NANP administration. NPRM at ¶¶ 182-190.

The Ohio Commission believes the NANPA is best suited to act as the pooling administrator(s). If the current NANPA is selected as the national administrator, arrangements should be set in a contract, which specifically identify which administrative duties the NANPA is to perform. The arrangements should clearly define the activities related to pooling in order to avoid assessments on carriers under the LNP cost allocation formula for costs which are strictly connected to functions performed in administering thousand-block pooling. Such an arrangement is integral to the clear understanding of the functions to be performed by the administrator prior to commencement of thousand-block pooling.

Cost Recovery

The Ohio Commission would like to comment that what appears to be most practical at this time is the development, by the FCC, of a recovery formula, not unlike that developed for the recovery of LNP implementation costs by incumbent carriers. The competitively neutral criteria must be adhered to.

The Ohio Commission does have concerns with the manner in which the proposed formula for recovery is to be applied. Unlike the deployment of LNP, which was borne out of the desire by Congress, under the Telecommunications Act of 1996, to ensure that the marketplace become fully competitive and that consumers be afforded the opportunity to change carriers without their needs being hampered by the lack of flexibility in porting their telephone numbers, 1,000 block number pooling is driven by the ineffective and inefficient numbers assignment created in the allocation of such numbers in the assignment of 10,000 number blocks. This practice developed under the monopoly environment continues to date. The consumer has had no direct input into how number blocks have been and continue to be assigned. It is the ILECS, the CLECS

and the CMRS who consistently benefit from the assignment and warehousing of these 10,000 number blocks. Therefore, the formula for recovery of costs associated with pooling, which will continue to benefit all such carriers, should impact only those benefiting and not be allowed to become a pass-through, line item, to be recovered from consumers. Ohio would recommend that the formula contain a mechanism for annual contributions by all carriers, much like the LNP recovery formula, based on annual revenues, to support number pooling implementation and from which fund the carriers will recover their costs for implementation, whenever and wherever that implementation occurs. Consumers should never experience the impact of such implementation or recovery charges since they have not directly contributed to the exhaust.

PICK & CHOOSE

In paragraph 110 of the NPRM, the FCC seeks comments on a regime that would allow carriers to choose the optimization that best suits their particular circumstance. The Ohio Commission sees little value in such an optional program. Unless all carriers in a rate center participate in a pool, the value of the pool cannot be maximized. In fact, if all but one carrier in a particular rate center should choose to create a pool, the absence of that one carrier could often be so significant as to render the pooling meaningless. Competitively neutral allocation of the costs associated with creating a number pooling system argues against allowing participation to be optional.

Rate center consolidation on a voluntary basis also presents several problems. First and foremost is that rate center consolidation would likely require rate cases with state approval. A carrier could not simply volunteer to consolidate its rate centers. Second, an ILEC has little incentive to consolidate rate centers and would consequently,

be unlikely to choose to do so. Third, rate center consolidation is often a very long process. Fourth, but not least, is that rate center consolidation will not lead to a significant increase in NPA lives in all areas.

Porting of unassigned numbers from other carriers assumes that other carriers have and are willing to port unassigned numbers. Relying on the voluntary interest of any carrier to port unassigned numbers to its direct competitors is unwise. Furthermore, a significant volume of unassigned numbers is held by wireless carriers, which are unable to port numbers. Consequently, the potential effectiveness of this option is greatly reduced.

Finally, is the issue of simply returning excess codes. The Ohio Commission does not understand how this voluntary measure would have any effect on the optimization of number resources. First, carriers can voluntarily return excess codes today yet have rarely chosen to do so. There are NANPA guidelines that require a carrier to aver that codes will be used within six months of assignment or the codes are supposed to be returned. However, the NANPA has only been able to reclaim an insignificant number of codes. Second, a carrier that has an unused excess code has no need to request an additional code (though that has not stopped carriers from requesting and receiving additional codes). If the carrier needs a code in a different rate center, the unused code can be moved.

PRICING OPTIONS

In the NPRM, at paragraphs 225-240, the FCC seeks comments on charging carriers for numbering resources the carriers request. The Ohio Commission believes the FCC should establish a pricing mechanism that appropriately recognizes the economic value of this scarce public resource. Just as spectrum space is limited, so is the

pool of available numbers. Attaching an appropriate cost to the acquiring of numbering resources will bring appropriate market forces to bear that will lead to a more efficient use of the resources. The Ohio Commission believes that one possible mechanism would be a system that charges carriers an appropriate application fee for the assignment of a group of numbers (*e.g.*, an NXX) and then charges a recurring rental fee or license fee for the retention of numbers. The Ohio Commission does not want the cost of acquiring numbers to prevent any reasonable competitive entry; however, the cost should be significant enough to deter carriers from warehousing numbers. In a real market environment, a business must always consider the costs of acquiring additional inventory against the benefits of doing so. Currently, that is not the case in the local telephone service industry. Instead, carriers have every incentive to over stock their number inventories.

In the NPRM, at paragraphs 231-238, the FCC discusses and seeks comments on the pros and cons of an administratively determined pricing mechanism as compared to a market-based pricing mechanism. The Ohio Commission believes that an administratively determined pricing mechanism is the more practical starting point. There do not appear to be any easy ways to create a purely market-based mechanism that would provide an equality of benefits throughout the nation. As the FCC notes (NPRM at ¶ 236), supply and demand in different markets would lead to different market-based prices for NXXs in those markets. This outcome would be acceptable if the demand for numbers in one market did not have an effect on the supply of numbers in another market. However, this is not the case. It is reasonable to assume that, even with a market-based price, the demand for numbers in the top markets would be significantly high and those top markets would continue to open new NXXs

and NPAs. Thus the national supply of number resources would diminish and the price in all markets would rise. This rise in price would be an ever-increasing deterrent for competitive entry in the smaller markets. The only way to avoid this effect would seem to be to create a finite supply of numbering resources for each market, such that the one market's supply is not diminished by another market's demand. The Ohio Commission does not believe such a solution is reasonable. Defining the appropriate geographic markets would be very difficult guesswork. Furthermore, projecting the future demand of any market and assigning a finite supply of numbers would be, at very best, extremely difficult. The process would itself be an inefficient use of the numbering resources.

Section 251(e)(2) permits the FCC to determine the costs associated with numbering administration and number portability. The 1996 Act also states that these costs must be paid by all telecommunications carriers on a competitively neutral basis. In adhering to the Act, the FCC must establish a recovery mechanism that is cost based. The cost recovery method recommended by the Ohio Commission in these comments complies with the 1996 Act because it is based on the costs of establishing (application fee) and maintaining (retention/license/rental fee) number administration.

An administratively-determined pricing mechanism could avoid the effect of having the demand in one geographic market area cause a price increase in another area due to a diminishing of the overall supply. The Ohio Commission believes that an appropriate, competitively-neutral pricing mechanism can and should be set and applied to all carriers' current numbering resources and all future numbering resource acquisitions and retention. Any effect on the entry of new carriers in the market or existing carriers in the market could be mitigated by a transitional period to a full

pricing mechanism. However, in order to encourage immediate improvements in the efficiency of number usage, the mechanism should be clearly defined now. An appropriate pricing mechanism should be twofold. There should be an acquisition price and a retention price.

The price for acquiring a number resource should be set to recover the costs associated with number administration. These charges would be analogous to an application fee. These charges would primarily recover the costs associated with the operations of the NANPA. Just as any business pays its supplier for new inventory, so carriers should pay the NANPA for new numbers. These revenues should go directly to a fund to pay the NANPA. Excess revenues should be allocated to other funds used to finance existing telecommunications programs. Specifically, the Ohio Commission would support allocating excess revenues go to the interstate USF with a commensurate reduction in the amount carriers must pay into the funds. The Ohio Commission would also support using the excess revenues to assist with the recovery of LNP implementation costs. In so doing, the line-item recovery could be eliminated and perhaps LNP could be more quickly deployed in the remaining markets. This would have a desired effect of making number pooling more widely available.

The second part of the pricing mechanism should be a retention price. These are the costs that carriers should bear for retaining use of scarce public numbering resources. These charges would be analogous to a rental fee and would primarily recover the societal costs associated with numbering resource exhaustion. The revenues should go directly to a fund to support number resource optimization. Such a fund could be used to accelerate the deployment of LNP and thereby enable pooling in more areas. The fund could also be used to assist with the expansion of the NANP

should that be deemed necessary. The Ohio Commission believes that the retention charge could be the transitional mechanism. For the first 12 months, there would be no retention charge. Beginning with the second year of the transition, the retention charge could be 50 percent of the full retention charge. By the end of year three, the retention charge would up to the 100 percent level.

Area Code Relief

In the NPRM, (§§ 249 and 252), the FCC seeks comment on the advantages and disadvantages of geographic splits and all-services overlays relative to other methods of area code relief. The Ohio Commission agrees with the FCC lists of primary advantages and disadvantages identified in the NPRM at paragraphs 248, 250 and 251. The Ohio Commission believes it is important to note that in many NPAs, a geographic split (and in some cases more than one split) can be implemented with minimal effect to the vast majority of caller's seven-digit local calling patterns. With regard to overlays, the Ohio Commission notes that there appears to be evidence that certain industry segments and even end users are beginning to see an overlay and ten-digit dialing as preferable to repetitive number changes associated with splits. Geographic splits and all-services overlays should definitely remain as options available to states engaged in area code relief planning. Rather than implement additional constraints on the states with regard to area code relief, the FCC should delegate additional authority to the states. The very examples identified by the FCC as possible tools to maximize number usage optimization are the tools the states could most effectively apply to achieve the desired objectives of the FCC.

The FCC also seeks comments on service-specific and technology-specific overlays. NPRM at §§ 256-260. The Ohio Commission continues to believe that

service-specific and technology specific overlays must be among the available options for new area code implementation. The competitive concerns noted by the FCC may be far outweighed by the benefits of such overlays. The particulars surrounding a specific area code relief planning effort may, in fact, find a service or technology-specific overlay to be the relief of choice. Perhaps a wireless overlay alone, or coupled with other optimization methods, may provide desirable long-term relief with reasonably low levels of consumer disruption. The staff of the Ohio Commission is currently conducting a large survey of business and residential end users to assess the public preference with regard to overlays versus geographic splits. The response data is not yet available, but we expect it will be available before the reply comments in this proceeding are due. This survey also attempts to gauge the public acceptance of a wireless overlay. Such information will enable us all to know whether there is, or is not, significant merit to the competitive concerns arguments. There certainly can be no reasonable competitive concerns related to a service-specific overlay that would apply to point-of-sale services (e.g. gas pumps, cash registers, and ATMs, etc.). The states should be given the authority to implement the area code relief that best suits particular circumstances.

The FCC seeks comments on the relationship between technology- and service-specific overlays and other numbering resource optimization methods. The Ohio Commission believes such overlays are another viable tool that if used in conjunction with others can lead to a maximization of numbering resource optimization. No one optimization method or one set of optimization methods will work best in all cases. The states must have the authority to implement those methods that best address the

unique public interests in each case while forwarding the objective of numbering resource optimization.

ALTERNATIVE SOLUTIONS

The Ohio Commission believes that the FCC must expeditiously investigate all possibilities with regard to the numbering situation in North America. As we stated in our earlier comments we believe the FCC, the NANC, and the industry have not adequately examined possible across-the-board changes to the NANP and the current dialing protocols.³ The FCC has long recognized that telephone numbers are a finite public resource. Given the astronomical (but probably conservative) estimates of the cost to expand the NANP, the FCC, as the trustee of this public resource, is duty bound to examine all possible ways to make the best use of the resource for the common good of the public. Again, we raise the examples of the functional property code plan and the 8-digit uniform dialing plan, both which have been presented at various industry and regulatory forums. These alternatives might offer long term area code exhaust relief at a total cost below that of NANP expansion or pooling. The Ohio Commission is concerned that all alternatives and their potential remedies to the current exhaust dilemma have not been fully explored.

The Act gave the FCC the ability to delegate any or all numbering administration authority to the states. 47 U.S.C. 251(e)(1). In its Second Report and Order of 96-98 (Paragraphs 312 and 316), the FCC gave states permission to initiate and plan area code relief.

³ PUCO Dec. 18, 1998 Comments, *North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures*, NSD File No. L-98-134.

Consistent with this approach, the FCC should take this opportunity to give states and the NANPA broad powers to implement number resource optimization measures. The FCC should also empower the NANPA and the states with broad audit and enforcement capabilities. To give the states, the NANPA, and the carriers a clear understanding, the FCC should immediately implement national rules with regard to the reporting of COCUS type data, audits, number pooling forms and functions, and utilization threshold requirements. There must be strict enforcement tools available, including severe penalties to carriers for failure to abide by appropriate number resource optimization requirements. Finally, the FCC should immediately begin the investigation of all possible alternatives to expanding the NANP to determine the alternative(s) that present the best benefit to cost ratio.

CONCLUSION

The Ohio Commission thanks the FCC for its invitation for public input in this proceeding.

Respectfully submitted,

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